

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

1:10CV125

JAMES L. YERKES,

Plaintiff,

vs.

NATIONWIDE TRUSTEE SERVICES,
F/K/A COUNTRYWIDE HOME LOANS,
and its ATTORNEY, PHILLIP A.
ITALIANO, ESQ.,

Defendants.

ORDER

This matter is before the court upon Defendant Phillip A Italiano's Motion to Dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted.

It appears that this Defendant may be entitled to a dismissal in this action as a matter of law. Therefore, the Plaintiff is directed to file a response as described below:

TO THE PLAINTIFF, JAMES L. YERKES, READ THE FOLLOWING VERY CAREFULLY:

You are to file a brief written argument opposing the Defendant's brief supporting the Motion to Dismiss.

Within fourteen days of the date of entry of this Order, the Plaintiff must submit the brief or request an extension of the deadline.

You are hereby advised that you have fourteen (14) days from the filing of this Order in which to file your response to the Motion to Dismiss. If you fail to respond to this motion, the court will proceed to decide the matter. A copy of the response must be served on the

Defendants and a certificate of service must be filed with the court showing that a copy has been sent to counsel for the Defendants.

IT IS THEREFORE ORDERED that Plaintiff has fourteen (14) days from the filing of this Order in which to respond to Defendant's Motion to Dismiss.

The Clerk is directed to certify copies of this Order to Plaintiff and counsel for the Defendant. The Clerk is specifically directed to send Plaintiff's copy by **certified mail, return receipt requested**.

Signed: December 6, 2010

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

